

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LAMAR BROOKS,

Plaintiff,

vs.

ARRIZOLA, et al.,

Defendants.

1:20-cv-00476-GSA-PC

**ORDER FOR CLERK TO RANDOMLY
ASSIGN A DISTRICT JUDGE TO THIS
CASE**

**FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
PROCEED ONLY AGAINST DEFENDANT
C/O ARRIZOLA FOR USE OF EXCESSIVE
FORCE IN VIOLATION OF THE EIGHTH
AMENDMENT, AND THAT ALL OTHER
CLAIMS AND DEFENDANTS BE
DISMISSED**

OBJECTIONS, IF ANY, DUE IN 14 DAYS

Lamar Brooks ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on April 3, 2020. (ECF No. 1.) The Complaint names as defendants Correctional Officer (C/O) Arrizola, Sergeant Stane, and Lieutenant Fitzpatrick (collectively, "Defendants"), and brings claims for excessive force, inadequate medical care, improper prison appeals process, cover-up of wrongdoing, and state law claims.

1 The court screened the Complaint and found that it states a cognizable claim under the
2 Eighth Amendment against defendant C/O Arrizola for use of excessive force in violation of the
3 Eighth Amendment, but no other claims against any of the Defendants. On August 9, 2021, the
4 court issued a screening order requiring Plaintiff to either: (1) file a First Amended Complaint,
5 or (2) notify the court that he is willing to proceed only with the excessive force claim found
6 cognizable by the court. (ECF No. 13.)

7 On August 30, 2021, Plaintiff notified the court that he is willing to proceed only with
8 the claims found cognizable by the court. (ECF No. 14.)

9 Based on the foregoing, the Clerk is **HEREBY DIRECTED** to randomly assign a district
10 judge to this action; and

11 The court **HEREBY RECOMMENDS** that:

- 12 1. This action proceed only on Plaintiff's claim against defendant C/O Arrizola for
13 use of excessive force in violation of the Eighth Amendment;
- 14 2. All remaining claims and defendants be dismissed from this action;
- 15 3. Plaintiff's claims for inadequate medical care, improper prison appeals process,
16 cover-up of wrongdoing, and state law claims be dismissed from this action based
17 on Plaintiff's failure to state any claims upon which relief may be granted;
- 18 4. Plaintiff's state law claims be dismissed, without prejudice to bringing the claims
19 to state court;
- 20 5. Defendants Sergeant Stane and Lieutenant Fitzpatrick be dismissed from this
21 action based on Plaintiff's failure to state any claims against them upon which
22 relief may be granted; and
- 23 6. This case be referred back to the Magistrate Judge for further proceedings,
24 including initiation of service of process.

25 These Findings and Recommendations will be submitted to the United States District
26 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
27 fourteen (14) days after the date of service of these Findings and Recommendations, Plaintiff
28 may file written objections with the Court. The document should be captioned "Objections to

Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: September 23, 2021

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE